

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #1	CCRB Case #: 201707303	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/25/2017 10:55 PM	Location of Incident: Col. Young Playground	Precinct: 32	18 Mo. SOL 2/25/2019	EO SOL 2/25/2019	
Date/Time CV Reported Wed, 08/30/2017 11:43 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/06/2017 11:17 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. CPT Neil Zuber	00000	931483	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Brazas	25360	953703	032 PCT
2. POF Mst Parvin	06857	961073	032 PCT
3. SGT Ray Thorney	03841	926206	032 PCT
4. SGT Joan Perkins	04984	921083	032 PCT
5. POM Richard Cubinski	15465	956558	032 PCT
6. POM Adam Bell	15721	959487	019 PCT
7. POM Steven Ourelio	06012	952081	019 PCT
8. POM Clinton Wike	00005	935967	025 PCT
9. POM William Cote	01729	960397	026 PCT
10. POM Jose Torres	20883	954378	023 PCT
11. POM Michael Gagliardo	21607	959645	023 PCT
12. POF Britney Crawford	20545	958446	024 PCT
13. POM Francis Delacruz	22161	962992	024 PCT
14. Officers			

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer struck § 87(2)(b) with an asp.	

Officer(s)	Allegation	Investigator Recommendation
B.CPT Neil Zuber	Force: Captain Neil Zuber used physical force against § 87(2)(b)	
C.CPT Neil Zuber	Force: Captain Neil Zuber used physical force against § 87(2)(b)	
D.CPT Neil Zuber	Discourtesy: Captain Neil Zuber spoke discourteously to § 87(2)(b)	
E.CPT Neil Zuber	Abuse: Captain Neil Zuber threatened to arrest § 87(2)(b)	
F.CPT Neil Zuber	Abuse: Captain Neil Zuber threatened to arrest § 87(2)(b)	

## Case Summary

§ 87(2)(b) filed this complaint with IAB on August 30, 2017, generating Original Log #17-33458. The complaint was then forwarded to the CCRB, where it was received on September 6, 2017. On the evening of August 25, 2017, § 87(2)(b) participated in a basketball tournament taking place at Col. Young Playground, located at West 145<sup>th</sup> Street and Lenox Avenue in Manhattan. At approximately 10:55 PM, a large fight broke out on the court, involving players from both teams and members of the crowd. Officers assigned to a security detail at the basketball tournament and additional responding officers cleared the basketball court and surrounding area. In the process, an officer allegedly struck § 87(2)(b) in the head with an asp (**Allegation A: Force**, § 87(2)(g)). Additionally, Captain Neil Zuber of the 32<sup>nd</sup> Precinct allegedly pushed § 87(2)(b) (**Allegation B: Force**, § 87(2)(g)). Captain Zuber also allegedly pushed § 87(2)(b) (**Allegation C: Force**, § 87(2)(g)). Lastly, Captain Zuber allegedly spoke discourteously to § 87(2)(b) (**Allegation D: Discourtesy**, § 87(2)(g)) and threatened to arrest both § 87(2)(b) and § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g); **Allegation F: Abuse of Authority**, § 87(2)(g)). No arrests were made and no summonses were issued. There is no video associated with this case.

## Findings and Recommendations

### Allegation A—Force: An officer struck § 87(2)(b) with an asp.

§ 87(2)(b) (Board Review 01) stated that during the fight on the basketball court, he observed § 87(2)(b) – known to him only as “§ 87(2)(b)” – with his back to the chain link fence that surrounded the court. § 87(2)(b) was grappling with several supporters for the opposing team. He was leaning forward, so that the back of his head faced upwards and was exposed. A uniformed black male officer struck § 87(2)(b) on the back of the head with an asp once or twice, swinging downward. After observing this, § 87(2)(b) exited the court and did not see § 87(2)(b) again.

The investigation was unable to obtain a statement from § 87(2)(b) (Board Review 02).

§ 87(2)(b) (Board Review 03) stated a male officer struck § 87(2)(b) once on the back of the head with a baton, but described the subject officer as a uniformed white male.

§ 87(2)(b) (Board Review 04), § 87(2)(b)'s brother, stated that he did not see any officer use force against § 87(2)(b). However, when he later encountered § 87(2)(b) he was bleeding from the back of the head. § 87(2)(b) explained that an officer had struck him with a baton but provided no other detail about what had taken place. § 87(2)(g) § 87(2)(b) (Board Review 05) stated that as he departed, an individual unknown to him said that someone had struck him in the head with a "stick," and that he believed it was a police officer who had done so. § 87(2)(b) did not see anyone strike this individual and only learned about this use of force secondhand.

§ 87(2)(b) (Board Review 06), the tournament organizer, stated that he did not witness any officer use force against any civilian. Likewise, § 87(2)(b) (Board Review 07) stated that he did not see any officer strike anyone with a baton.

No TRI reports were prepared within the confines of the 32<sup>nd</sup> Precinct on August 25, 2017 (Board Review 08), and no relevant 250 report or AIDED report was prepared (Board Review 09 and 10).

A Sprint report pertaining to this incident (Board Review 11) indicated that the 32<sup>nd</sup> Precinct Executive Officer, 32<sup>nd</sup> Precinct Patrol Supervisor, officers assigned to Sector B of the 32<sup>nd</sup> Precinct, and a Patrol Supervisor from Transit Bureau District 3 responded to the incident.

The investigation obtained statements from officers corresponding to the above 32<sup>nd</sup> Precinct assignments, Captain Neil Zuber (Board Review 12), Sgt. Ray Thorney (Board Review 13), PO Mst Parvin (Board Review 14), and PO Matthew Brazas (Board Review 15) of the 32<sup>nd</sup> Precinct. Each denied striking any individual with an asp or witnessing any other officer do so.

The roll call for Transit Bureau District 3 (Board Review 16), and memo books for Sgt. Zebulon Taylor (Board Review 17) and PO Umair Karim (Board Review 18) reveal that they responded to the incident. In PO Karim's memo book, he noted that the incident was "handled by top side" and that the situation was "under control" upon their arrival.

NYPD radio communications pertaining to the incident (Board Review 19 for audio; Board Review 20 for transcript) reveal that a sergeant from the 25<sup>th</sup> Precinct, a sergeant from PSA 6, 32<sup>nd</sup> Precinct Anti-Crime officers, and officers assigned to Sector C of the 32<sup>nd</sup> Precinct acknowledged the radio call prior to being informed that no further units were needed. None of these units noted that they were 10-84 [on scene].

The investigation obtained the relevant roll calls for each of these commands (Board Review 21 to 23), which reveal that two black males, two white males, and three Hispanic males were among the officers who possibly responded. The investigation obtained all of the relevant memo books, none of which included pertinent entries. Further, the above-referenced audio reveals that Captain Zuber instructed no further units to respond less than one minute after a housing sergeant stated they were en route.

PO Alvarez of the PBMN Operations Unit confirmed that his office organized a detail for the basketball tournament in question, commonly known as the "Rucker" detail. According to PO Alvarez, the commands involved on the date in question were the 19<sup>th</sup>, 23<sup>rd</sup>, 24<sup>th</sup>, 25<sup>th</sup>, and 26<sup>th</sup> Precincts.

The investigation obtained roll call information for each of these commands (Board Review 24 to 26). Additionally, 32<sup>nd</sup> Precinct roll call included officers assigned to the detail.

The investigation identified ten officers assigned to the detail in question. Among them were two black males, four white males, and two Hispanic males. None of the memo books obtained for these officers made any note regarding any use of force.

The investigation obtained statements from Sgt. Joan Perkins and PO Richard Cubinski of the 32<sup>nd</sup> Precinct (Board Review 27 and 28), PO Adam Bell of the 19<sup>th</sup> Precinct (Board Review 29), and PO Clinton Wike of the 25<sup>th</sup> Precinct (Board Review 30). Each denied striking any individual with an asp or witnessing any other officer do so.

§ 87(2)(g)

**Allegation B—Force: Captain Neil Zuber used physical force against § 87(2)(b)**

§ 87(2)(b) stated that as he, § 87(2)(b) and § 87(2)(b) made their way to his vehicle, they encountered Captain Zuber and a group of other officers on the sidewalk on the east side of Lenox Avenue. The officers were blocking their path. Captain Zuber instructed the group to turn around and head northbound. § 87(2)(b) explained, however, that they needed to reach his vehicle, to the south, and that they only wanted to leave.

As § 87(2)(b) and his associates attempted to pass the officers, Captain Zuber and several other officers approached § 87(2)(b) and blocked his path. Captain Zuber and two or three other male officers then pushed § 87(2)(b) back by the chest and shoulders. § 87(2)(b) was unable to describe these other officers in any greater detail.

§ 87(2)(b) stated that Captain Zuber blocked his path and said, "Didn't I tell you to go that way?" Captain Zuber and an unspecified number of other officers surrounded § 87(2)(b) at which time Captain Zuber shoved him. § 87(2)(b) had only been attempting to walk toward his vehicle and had not initiated physical contact with any officer.

Likewise, § 87(2)(b) and § 87(2)(b) stated that officers created a barrier with their bodies in order to prevent him and his associates from passing on the sidewalk. According to § 87(2)(b) it was at this time that Captain Zuber pushed § 87(2)(b) however, § 87(2)(b) stated that although Captain Zuber and an individual named § 87(2)(b) yelled at one another, § 87(2)(b) never saw any officer shove any individual. § 87(2)(b) for his part, stated that he believed an officer shoved § 87(2)(b) but was uncertain as to who shoved him. As noted above, § 87(2)(b) stated that he did not see any officer use any force during the incident.

Captain Zuber stated that once the crowd was cleared from the basketball court onto the sidewalk, he wanted to ensure that individuals on opposing sides of the dispute moved in opposite directions. Two main groups of “combatants” were gathered on the sidewalk. Captain Zuber believed that on the date in question, officers formed a line and walked slowly toward one of the groups in order to make them move away from the area. He was not certain that officers used this tactic on the date in question but it was a tactic frequently employed by officers in such situations. Further, officers used this tactic during more than one of the fights at Col. Young Playground during the summer of 2017. Captain Zuber did not believe that he himself joined in forming a line of officers, as he was the only executive on scene and needed to remain mobile in order to supervise effectively.

Captain Zuber stated further that he did not push or shove any civilian, and that he did not see any other officer do so. He believed that if any officer had had to shove any civilian, the behavior prompting an officer to do so would rise to the level of Disorderly Conduct and the civilian in question would have been arrested. However, no arrests were made.

Sgt. Perkins, Sgt. Thorney, PO Parvin, PO Brazas, and PO Cubinksi, all of whom were assigned to the 32<sup>nd</sup> Precinct, recalled Captain Zuber's presence on scene, but each stated that they either did not see or did not recall Captain Zuber or any other officers pushing any individual. PO Bell and PO Wike both stated that they were unfamiliar with Captain Zuber. They also stated that they did not see any officer push any individual.

§ 87(2)(g)

**Allegation C—Force: Captain Neil Zuber used physical force against § 87(2)(b)**

§ 87(2)(b) stated that when Captain Zuber pushed § 87(2)(b) he also pushed a member of their basketball team named § 87(2)(b). The investigation was unable to obtain a statement from § 87(2)(b) (Board Review 31). Although § 87(2)(b) described a verbal interaction between Captain Zuber and a teammate named § 87(2)(b) no other individual made any such allegation on § 87(2)(b) behalf.

§ 87(2)(b) failed to appear at the CCRB on October 6 and 10, 2017, and did not call to cancel or reschedule prior to either interview appointment (Board Review 32). § 87(2)(g)

**Allegation D—Discourtesy: Captain Neil Zuber spoke discourteously to § 87(2)(b)**

**Allegation E—Abuse of Authority: Captain Neil Zuber threatened to arrest § 87(2)(b)**

**Allegation F—Abuse of Authority: Captain Neil Zuber threatened to arrest § 87(2)(b)**

§ 87(2)(b) stated that he and a group of his teammates, including § 87(2)(b) encountered Captain Zuber on the sidewalk outside of the basketball court. Captain Zuber and other officers stood together, creating a barrier so that § 87(2)(b) and his teammates could not move past them in the desired direction. Captain Zuber yelled at § 87(2)(b) who stood his ground. § 87(2)(b) pulled § 87(2)(b) back. However, § 87(2)(b) said to Captain Zuber, "Suck my dick." Captain Zuber responded, "Go home and tell your mother to do that." Captain Zuber, approaching § 87(2)(b) and § 87(2)(b) then said to them, "Go home before you get locked up." They then departed.

As previously addressed, the investigation was unable to obtain a statement from § 87(2)(b). Further, no other individual made any such allegation on § 87(2)(b)'s or § 87(2)(b) behalf.

§ 87(2)(b) failed to appear at the CCRB on October 6, 2017, and then did not respond to follow-up contact attempts (Board Review 33). As of the writing of this report, § 87(2)(b) has not contacted the undersigned and the letters have not been returned to the CCRB. § 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)
- This is the first CCRB complaint involving § 87(2)(b) (Board Review 35) or § 87(2)(b) (Board Review 36).
- Captain Zuber, who has been a member of the NYPD for fifteen years, has been a subject in ten previous CCRB cases (Board Review 37). In Case #200910476 it was alleged that Captain Zuber took an individual to the ground and punched him. That allegation was exonerated. In Case #200910476 it was again alleged that Captain Zuber took an individual to the ground and punched him. That case was truncated. In Case #201003727 it was alleged that Captain Zuber pushed an individual against a wall. That allegation was exonerated. In Case #201109950 it was alleged that Captain Zuber pushed an individual. That case was truncated. In Case #201303672, it was alleged that Captain Zuber pushed an individual against a bench, punched him, and then took him to the ground. These allegations were unsubstantiated. In Case #201510184, an allegation that Captain Zuber approved an unlawful arrest was substantiated. No other allegations against Captain Zuber have been substantiated.

#### **Mediation, Civil and Criminal Histories**

- This case was deemed unsuitable for mediation § 87(2)(g)
- On January 23, 2018, a request was submitted to the Office of the Comptroller for any notice of claim filed in regards to this incident. As of the writing of the report no response has yet been received.
- § 87(2)(b)
- Neither § 87(2)(b) (Board Review 39) nor § 87(2)(b) (Board Review 40) has any history of criminal conviction.

#### **Allegations Not Pleaded:**

- In his initial complaint to IAB, § 87(2)(b) reported that officers were not providing their names or shield numbers. However, he stated during his CCRB interview that he never asked any officer for his or her name or shield number. § 87(2)(g)
- § 87(2)(b) stated that Captain Zuber and several other officers pushed § 87(2)(b). However, § 87(2)(b) stated that it was only Captain Zuber who pushed him. § 87(2)(g)

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date